

Competition Act Private Rights of Action take effect June 20

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In recent decades, the growing emphasis on climate change and environmental stewardship has led to a marked rise in 'green' marketing. Since [the enactment of Bill C-59](#) last year, however, many businesses have been cautious in making environmental claims, due to ongoing uncertainty regarding the enforcement approach toward the newly implemented greenwashing provisions of the *Competition Act* (**Act**).¹

Refresher: How did Bill C-59 change the Competition Act?

Bill C-59 introduced significant amendments to the Act, specifically targeting greenwashing practices. While the Act has always prohibited deceptive marketing, Bill C-59 codified two new distinct categories of environmental-related deceptive marketing. First, claims about the use or supply of a product must be supported by adequate and proper testing.² Second, representations about the benefits of a business or business activities must be substantiated in accordance with internationally recognized methodology.³ According to the new provisions, representations with respect to the environment do not need to be false or misleading to be actionable.

BD&P's previous articles on these provisions and warnings on greenwashing (linked in footnote 4, below), including our most recent article on the Competition Bureau's (the **Bureau**) final guidelines, offer additional insights into these changes.⁴

What happens on June 20, 2025?

On June 20, 2025, private parties in Canada will gain the ability to file claims for breaches of the greenwashing provisions directly with the Competition Tribunal (**Tribunal**). The Tribunal may grant leave for a claim to proceed if satisfied that it is in the "public interest" to do so. This raises the question: when will the Tribunal consider a private action to be in the "public interest"?

What does "public interest" mean?

The Act does not define "public interest," however, interpretations by the Tribunal, other administrative bodies and courts may offer some guidance. Given that there is no singular definition for "public interest", decision makers must exercise discretion, and they typically apply a broad and contextual interpretation aligned with the relevant legislative purpose.

Any decisions on what is in the "public interest" should pay heed to the purposes of the Act. These include maintaining and encouraging competition to promote the efficiency and adaptability of the Canadian economy.⁵ The Act aims to ensure businesses have equitable opportunities to participate in the economy

¹ Generally speaking, "greenwashing" refers to making false or misleading claims about the environmental benefits of a company's products, services, or business activities.

² See [Section 74.01\(1\)\(b.1\)](#).

³ See [Section 74.01\(1\)\(b.2\)](#).

⁴ Click any of the linked titles below to access the corresponding publication:

- [Competition Bureau Releases Final Greenwashing Guidelines](#) (published June 10, 2025)
- [BD&P's Insights on Competition Bureau's Draft Guidelines regarding Greenwashing](#) (published March 4, 2025)
- [Competition Bureau releases Draft Guidelines on the New Greenwashing Laws](#) (published January 14, 2025)
- [BD&P Comments Regarding Guidance on Greenwashing Provisions](#) (published September 6, 2024)
- [Bill C-59 Enacted: New Laws Targeting Greenwashing](#) (published June 20, 2024)

⁵ See [Section 1.1](#).

and provide consumers with competitive prices and product choices. Simply put, the Act's primary focus is economic. Therefore, the Tribunal should only grant leave for private actions to proceed when the potential *economic* implications of a greenwashing claim engage the "public interest," as opposed to general environmental concerns. Due to the ambiguous nature of "public interest," however, it remains to be seen how the Tribunal will address such applications.

What if my company's advertisement contains a trademarked symbol? Am I protected?

The use of trademarked symbols in advertisements does not exempt a company from the requirements of the Act. If the overall impression of a trademarked symbol suggests certain environmental benefits, such claims must be substantiated just like any other environmental claim. A trademark registration on a symbol does not inherently validate any environmental claim potentially associated with it. Therefore, businesses must ensure that any implied environmental benefits are backed by adequate and proper substantiation, in accordance with the Act.

Bureau's recommendations for making environmental claims

On June 5, 2025, the Bureau released its [final guidelines](#) with respect to making environmental claims, whereby it sets out the following general principles for compliance with the Act:

1. **Ensure Claims are Truthful and Not Misleading:** Even if an environmental claim is true, it may still create a misleading impression. Include all necessary information to prevent consumer deception.
2. **Conduct Adequate and Proper Testing for Product and Performance Claims:** If the Act requires the claim to be based on an adequate and proper test, specific claims about the product's performance or environmental benefits must be based on thorough testing that has been conducted before such claim is made.
3. **Make Comparisons Specific:** Comparative claims must be specific and detail the extent of the differences between the things that are being compared.
4. **Avoid Exaggeration:** Do not overstate the environmental benefits of a product, service, or business activity. Small benefits to the environment should not be marketed as big benefits to the environment, whether directly or by implication.
5. **Use Clear and Specific Language:** Avoid vague terms like "eco-friendly" that suggest broad benefits. If the claim concerns the business as a whole, the environmental impact of all activities of the business must be taken into account when making the claim. The claim must indicate whether it applies to the entire product or business, or only a specific part of it.
6. **Substantiate Future Claims:** Claims about future achievements, like being "carbon-neutral" by a certain date, must be well-founded and substantiated in accordance with the Act.

We caution that the above principles, while helpful, do not capture the full reach and scope of the new greenwashing provisions. Additionally, this guidance is not binding on the Tribunal, which may or may not interpret and apply the new rules in the same way.

If you have any questions about making environmental claims within the new legislative framework, please contact any member of our [Competition Law](#) or [Business Law](#) group, or if your business is the subject of a greenwashing claim, contact any member of our [Litigation](#) group.